

APPROVED: Meeting No. 29-96

ATTEST: *Paula C. Jewell*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 23-96

May 20, 1996

The Mayor and Council of Rockville, Maryland, convened in Public Hearing in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on May 20, 1996, at 7:30 p.m.

PRESENT

Mayor Rose G. Krasnow

Councilmember Robert E. Dorsey

Councilmember James T. Marrinan

Councilmember Glennon J. Harrison

Councilmember Robert J. Wright

In attendance: City Manager Rick Kuckkahn, Brenda Bean, Assistant to the City Clerk, and City Attorney Paul Glasgow.

Re: Announcement

Mayor Krasnow announced the upcoming Hometown Holidays celebration this weekend and reminded everyone to attend.

Re: Public Hearing Re
Residential Townhouse
Development Application
RTH96-0017,
Montgomery County
Government,
Department Of Housing
& Community
Development, Applicant.

The hearing was opened for the sole purpose of tabling the matter until July 15, 1996 at 7:30 p.m. There are several environmental constraints relating to this

application which the applicant desires to address prior to holding the public hearing.

Re: Public Hearing Re: Text
Amendment Application
TXT96-0155, Manor
Healthcare Corp.,
Applicant.

The Mayor and Council conducted a Public Hearing on a proposed Text Amendment Application TXT96-0155, Manor Healthcare Corp.. Applicant, to amend the Zoning Ordinance to add a new use entitled "Adult Day Care Center," to permit the use in all nonresidential zones and to add a parking standard for the use. The Mayor and Council heard all those persons wishing to testify as can be found in the official stenographic transcript. Mayor Krasnow declared the Public Hearing closed with the record to remain open until close of business on June 10, 1996.

Re: Public Hearing Re Text
Amendment Application
TXT96-0156, Mayor and
Council of Rockville,
Applicant.

The Mayor and Council conducted a Public Hearing on a proposed Text Amendment Application TXT96-0156, Mayor and Council of Rockville, Applicant, to amend the Zoning Ordinance, "Definitions (Sec. 25-1)" and "Heights (Sec. 25-18)," to allow monopoles to exceed the height limit in the zones in which they are located. The Mayor and Council heard all those persons wishing to testify as can be found in the official stenographic transcript. Mayor Krasnow declared the Public Hearing closed with the record to remain open until close of business on June 10, 1996.

Re: Citizens Forum

1. Ruth Hanessian, 303 Highland Avenue mentioned that seven years ago during the Hometown Holidays celebration, Animal Exchange began the tradition of holding a "Blessing of the Animals" ceremony. Ms. Hanessian extended a personal invitation to the Mayor and Council to participate in the Animal Blessing ceremony on Friday, May 31st. Monsignor Kostick, Rabbi Reeves Brenner and Reverend Shannon will bless those animals present.

2. Don Boebel, 3 Barclay Court, Co-Chair of the F. Scott Fitzgerald Centennial Committee, distributed to the Mayor and Council Commemorative hats that were produced as part of the Centennial Celebration.

Re: New Business

1. Glennon Harrison asked staff to prepare a text amendment that would allow consideration of whether or not stand-alone restaurants would be appropriate in the TCO-1 Zone.

2. Rose Krasnow asked to staff to determine which company was laying cable and erecting white identifier posts with orange tips. Several of these posts have been spotted on the King Farm, Wootton Parkway and Seven Locks Road. Mayor Krasnow stated that this seemed to be contradictory to the language contained in City ordinance, and asked staff to clarify and bring their findings back.

3. Glennon Harrison said that MCI was laying cable and wondered whether or not City right-of-ways were being used. He asked that staff ascertain exactly where the cable was being installed and for what purpose.

Re: Next Meeting

Mayor Krasnow announced that on Tuesday, May 28th, the first of two Budget Public Hearings would be held. She asked that those persons who wished to speak call the City Clerk's office to place their names on the speakers list.

Re: Adjourn to Worksession

There being no further business to come before the Mayor and Council, the Public Hearing adjourned at 8:50 p.m., in order for the Mayor and Council to convene in Worksession to discuss and instruct staff on the Comprehensive Planned Development for the King Farm.

Re: Worksession Re:
Comprehensive Planned
Development (CPD) -
King Farm

The Mayor and Council met with Barbara Sears, Attorney for the Developer, Helios/Towle, and other representatives involved with the development of the King Farm: Larry Goldstein, Mark Gregg and Steve Gang. Ms. Sears mentioned that there were several specific questions and concerns arising out of previous worksessions, and it was her hope to address those this evening. Staff members present were: City Manager Rick Kuckkahn, Deputy City Manager Julia Novak, City Attorney Paul Glasgow, Community Development Director Neal Herst, and Lisa Rother, Chief of Planning. The following is a summary of the items discussed by the

Mayor and Council pertaining to the King Farm Concept Plan and related text amendment and street abandonment applications.

1. Tax Exempt Entities

Helios/Towle (the developer) presented a proposal to provide a payment in lieu of the tax exempt status. Under the PILOT (payment in lieu of taxes) proposal, 1.8 million square feet of office space could be sold to an entity exempt from the payment of real property tax. Anything tax exempt over that would require 10 years of payment, in lieu of taxes, to the City on an annual basis.

Councilmember Wright asked what the duration of the payment schedule would be after the 10 year period. Did payments continue forever or was there a fixed period? Ms. Sears said the amount would be fixed and ammortized over 10 years in equal installments. The estimated time for "build out" of the entire project would be 20 years allowing for some finality. Ms. Sears said they used the Rockville Center Inc. Agreement as a basis for their calculation.

The Mayor expressed her hope that the agreement would reflect the 1.8 million square feet of office space, leaving the rest of the property subject to payment of lower taxes with no 20 year fixed time frame.

Glennon Harrison expressed his concern that the average amount of non profit space in Rockville is approximately 16%; that this developer could conceivably market to anyone (profit and nonprofit alike) and the entire amount (3.2 million square feet) potentially could all come in as non profit. This would generate no

municipal taxes for the City, except for a payment in lieu of taxes, to cover 20 years of estimated tax liability.

While Mayor Krasnow expressed a similar concern, she noted that the average developer would not necessarily have any restrictions in terms of marketing this property and she said she was pleased that the developer has set some limitation.

Councilmember Marrinan thanked the developer for their conciliatory efforts with respect to the PILOT issue and also for responding to Mayor and Council concerns from previous worksessions. He suggested that a distinction between government properties that are not taxable and the nonprofit sector be looked at carefully. He feels as though the 16% percent of non profit space currently in the City may be owned by County Government, and the real percentage of non profit in the City is a small percent of that figure. Mr. Marrinan said the term "tax exempt" should replace the term "non profit." Ms. Sears noted that the developer was marketing to entities to make a successful project, and not those who are exempt from taxes.

2. Parking - Public & Private Streets

Ms. Sears presented a new designation for which streets would be public and which would be private. Under the proposal, the amount of required on-street parking would be located on public roads and will not be included in the calculation for required parking. The areas which will be used for some of the required parking standards are to be located on private streets and are located within the multi-family and single family areas. Also proposed to the list of public streets is Pleasant Street which would connect the two public parks. The total for private roads is about 5 miles

and encompasses mostly small streets surrounding the residential areas on the north and south ends. The main roads, such as those in the Master Plan and those connecting parks and two proposed school sites, are proposed to be public. The developer would have the option of turning those roads over to the City in the future.

A detailed map will be prepared by the developer to reflect this proposal.

3. Road Maintenance & Traffic Enforcement

There was general discussion concerning the road maintenance. The Mayor and Council wanted assurance that homeowners associations would remain solvent enough to maintain the private roads. Ms. Sears responded that management companies, using a prorated calculation, would establish budgets for the homeowner associations and those associations would have the fiduciary duty to make sure assessments were levied in order to ensure maintenance of the roads. All requirements and responsibilities on the part of the associations must be defined in HOA documents. There was also discussion about including in HOA documents, a provision whereby the City would have authority to approve any speed bumps or road closures before they occurred.

Mayor Krasnow inquired whether the City would have the authority to enforce posted speed limits. The City Attorney responded that a uniform covenant system would have to be in place throughout the subdivision and that the City Police would have the authority to enforce moving traffic violations in the same manner as with any other public city streets. This would not include parking violations.

4. Reduction of Required Structured Parking

As part of the CPD application, the developer is requesting that in the commercial areas, the allowable reduction in the structured parking required to service a development, be changed from 45% to 25%. Councilmember Harrison wondered whether the on-street parking requirement would be single family attached or strictly multi-family and also if the parking would be located within 150 feet of the dwellings as required under Section 25-648 of the Zoning Ordinance. Ms. Sears responded that this requirement would be for the streets within single family streets and would not fall within that section; but that parking lots would be within 150 feet of a major connecting area. Ms. Sears said the developer would meet this standard and it would be incorporated into the CPD Resolution.

Councilmember Wright stated that the legal requirement under the Code is 2 parking spaces per unit and asked what was the reduction amount sought by the Developer. Ms. Sears said that it was difficult to answer without the benefit of a detailed design and that perhaps a better way to address the issue was to make a larger number of streets public and not subject to required parking, thereby eliminating the need for the parking text amendment, and to place the private streets in the conventional and traditional areas. A more accurate figure might be arrived at when the design is more advanced by using the same calculation that was used in the Phase I component. Mr. Wright said that when doing this, the developer should keep in mind the requirements under the current Zoning Code. Mr. Gang of Helios described to the Mayor and Council the procedure used to determine the parking requirement for Phase I of the development.

There was also discussion concerning the standards under which roads were to be built. Councilmember Marrinan asked for assurance that access roads, alleys and parking lots would also be built to Rockville Code specifications.

5. Setbacks

Referencing Section 25-646, Limitations on Setbacks for nonresidential uses, Councilmember Harrison indicated his desire to put into place a provision that the Planning Commission have authority to examine this at the detailed application stage, rather than giving blanket authorization now. Ms. Sears said that there is a mandate for commercial buildings to have a 15 foot setback from the back of the curb for commercial buildings; that this conforms with the various cross sections of the roadway. Mr. Harrison also had concerns regarding the structure of off-street parking spaces requirements. Under the proposal, 45% of the number all off-street parking spaces may be reduced to 25% if approved as part of the approval of the Comprehensive Planned Development. Mr. Harrison feels that the Planning Commission is better suited to decide if such a reduction were acceptable. Ms. Sears said that the 25% flexibility in parking reduction was important in order for the owner to compete and market the site. After discussion, it was decided that the Planning Commission could (for good cause) require, at the Detailed Plan stage, the developer to increase the amount of structured parking above the 25% level. Staff was instructed to include this concept in the CPD resolution.

Councilmember Wright asked about the possibility of designating Apartment Boulevard a public street and later request it to become private in the

event that pod shifting occurred during subsequent development.

Mayor Krasnow expressed her concern that the City has worked very hard to allow for on street required parking on private streets under the Plan. There was a consensus to instruct staff to keep this particular street private. The Mayor and Council would not object to it becoming public if there is no required parking on it.

Councilmember Marrinan echoed earlier concerns regarding the adequacy of HOA funding for private street maintenance and expressing the need for this area of concern to be addressed in setting up HOA documents.

6. Text Amendment Application TXT95-0154

Ms. Rother explained that the first part of this two-part application deals with modifications to Record Plat Procedures. Ms. Rother said that this component generally creates a record plat to record a larger size lot than the actual lots which would be the homeowners lots. This would allow the transfer of the property to a new builder.

Councilmember Harrison inquired whether this might be an unnecessary step for the City. Ms. Sears responded that in a large development such as King Farm, this modification is essential for the ability to finance and sell portions of the land. The Mayor and Council instructed staff to bring this section of the Text Amendment forward for adoption.

The second part of the Text Amendment relates to modifications to parking requirements. Based on earlier discussion, the Mayor and Council felt that this component to the Text Amendment is not necessary and will not be considered

further. The concept of private streets will be included in the proposed CPD resolution.

7. Street Closing and Abandonment Application SCA96-0073

This application requests the closing and abandonment of old Fields Road between Frederick and Redland roads. One issue that resulted from the public hearing on this matter related to the need for replacement easements. Ms. Sears indicated that after researching the matter, it was determined that no public utility easement was necessary and she asked that the Resolution reflect this.

Councilmember Harrison, with respect to the dedication to the City of the 5 acre parcel of buildings located on the site, inquired what would trigger the transaction and when would it occur. Ms. Sears responded that the dedication would be part of the detailed application for Phase 1 and the acreage would be dedicated upon completion.

Re: Adjourn to Executive Session

Upon motion of Councilmember Harrison, duly seconded and unanimously passed with Mayor Krasnow and Councilmembers Dorsey, Harrison, Marrinan and Wright voting "aye," the Mayor and Council adjourned to Executive Session at 11:20 p.m., pursuant to Section 10-508(a)(1)(i) of the State Government Article, Annotated Code of Maryland, to discuss personnel matters.